

EXHIBIT A

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EXHIBIT B

REDACTED

EXHIBIT C

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EXHIBIT D

REDACTED

EXHIBIT E

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

NOKIA CORPORATION and)
NOKIA, INC.,)
)
Plaintiffs,)
) C.A. No. 05-16-JJF
v.)
)
INTERDIGITAL)
COMMUNICATIONS CORPORATION)
and INTERDIGITAL)
TECHNOLOGY CORPORATION,)
)
Defendants.)

Wednesday, March 1, 2006
4:35 p.m.
Courtroom 4B

844 King Street
Wilmington, Delaware

BEFORE: THE HONORABLE JOSEPH J. FARNAN, JR.
United States District Court Judge

APPEARANCES:

MORRIS, NICHOLS, ARSHT & TUNNELL
BY: KAREN JACOBS LOUDEN, ESQ.

-and-

ALSTON & BIRD, LLP
BY: PATRICK J. FLINN, ESQ.
BY: LANCE A. LAWSON, ESQ.

1 THE COURT: Sure.

2 MR. DAVISON: Where I see, Your
3 Honor, the major areas of disagreement are with
4 the deadline to amend the need for a Markman
5 hearing, the completion of document production,
6 and then, lastly, the summary judgment date.

7 With regard to the amendment,
8 counsel, I think, was up front in that when she
9 talked about the reason they want to have the
10 amendment date 30 days before the close of
11 discovery is because the license agreement
12 between my client and Nokia expires at the end of
13 '06. As the Court is aware, they've originally
14 brought 18 declaratory judgment causes of action
15 for invalidity and infringement, which this Court
16 dismissed. Leaving only one Lanham Act claim.

17 What we believe is, quite frankly,
18 going to -- overarching some of our differences
19 is their attempt to have a redo of this Court's
20 ruling come January. They want the ability to
21 come in on or before, between the 1st of January
22 and the 15th of January to file a motion to amend
23 their pleadings to reassert declaratory actions
24 this Court dismissed 30 days before the discovery

1 cut-off.

2 We don't believe that, one, they
3 would have standing. But, two, we don't believe
4 that that's appropriate.

5 Our proposed amendment date is early
6 in the fall. That's after there have been
7 depositions, completion of document or
8 substantial document completion.

9 And yet would allow either party, if
10 we were to amend and add new claims, or if they
11 were to amend and add new claims, still allows
12 four months for substantive discovery prior to
13 the completion of discovery.

14 The possibility, in fact, I think
15 the telegraphed reality of Nokia attempting to
16 rebring in 18 declaratory judgment causes of
17 action 30 days before the discovery cut-off makes
18 that amendment date unworkable.

19 With regard to the Markman hearing,
20 we believe that the case law, Your Honor, is
21 clear that there is no need for a Markman
22 hearing. And we realize that this issue was not
23 briefed in any of the pleadings that were before
24 the Court, with the exception of it was addressed

1 understand --

2 THE COURT: But I bet you've tried a
3 couple patent cases.

4 MR. DAVISON: I have tried a couple,
5 Your Honor.

6 THE COURT: I suspect that's why you
7 may be retained. I don't know.

8 MR. DAVISON: I'm just a good trial
9 lawyer. I'm just a good trial lawyer that was in
10 the arbitration, Your Honor.

11 THE COURT: Oh, yeah. But any way,
12 here's the thing you've got. You know, when you
13 hear that background, --

14 MR. DAVISON: Yes, sir.

15 THE COURT: -- it kind of makes you
16 just want to wait until December 31st of 2006,
17 when you're the judge, because I could do a
18 little bit of work between now and December 31st
19 and have, which I think you both recognize.

20 But with different perspective, have
21 a different case on January 1 of 2007 if only by
22 motion.

23 MR. DAVISON: Maybe or maybe not.

24 THE COURT: Yeah.

1 MR. DAVISON: But I don't know that
2 I entirely agree.

3 THE COURT: No. And --

4 MR. DAVISON: Yes, Your Honor.

5 THE COURT: But it could be is what
6 I'm saying. But it wouldn't be, in any way, cast
7 in stone even then. It would be by motion.

8 Folks would be -- and this is not
9 meant to be perjorative posturing -- by motion,
10 to get the case where it made some business sense
11 to their side of the case.

12 MR. DAVISON: Your Honor --

13 THE COURT: Now, you know, the
14 vengeful way to attack this is, if you're a
15 judge, is tell you you're in the Eastern District
16 of Virginia, and this case is going to trial in
17 August and work out your schedule. But as I've
18 gotten older, I've tried to hold back my
19 vengeance.

20 And I know that you do have serious
21 legal positions today that you want to put forth.
22 And maybe the least vengeful thing to do is to
23 let Interdigital move ahead like it wants to with
24 the huge warning that I'm kind of thinking on

1 January 1 a declaratory judgment action, since I
2 have you both here and kind of got to know you
3 since last January, wouldn't be a bad thing.

4 Without -- you know, it's kind of,
5 like, not even a tentative ruling. It's just
6 kind of like a persuasion I might entertain,
7 because you want to make sense out of this.

8 But you don't want to spin your
9 wheels, as a judge. I'm being very selfish.

10 I'm looking at it from -- you know,
11 I've got patent cases. I've got, like, serious
12 first amendment cases, and I'd like to work on
13 rewriting that amendment a little bit.

14 I've got some serious anti-trust
15 cases going on. So I don't know where to be,
16 which doesn't hurt you and disadvantage you, and
17 yet gives some consideration to my time and
18 abilities, you know, to deal with you.

19 And, again, I say this, you know,
20 without in any way, you know, trying to be
21 clever, or nasty, or anything like that. But if
22 you really want to keep going at each other, and
23 that would basically be in Interdigital's
24 bailiwick to move the thing, kind of to move the

1 case along, kind of like the way you've
2 discussed, and to tell Nokia that I'm probably
3 going to be sympathetic to when your license
4 expires, what you may want to bring, again, is to
5 set some discovery, appoint a Special Master, and
6 let you have at each other for some period of
7 time. And then talk to you, like, October of
8 2006 to see where you are.

9 And if you're still on a head-on
10 collision start telling you that the case is
11 going to have a different complexion, at least by
12 motion practice, for the last part of 2006 and
13 the early part of 2007. And that would keep me
14 from being too stressed, and would keep you from
15 being too stressed with your client.

16 But if that's not the case, tell me
17 why. And I'll take you first.

18 MR. DAVISON: I appreciate that,
19 Your Honor.

20 We certainly don't want to stress
21 the Court, and we don't want to stress ourselves
22 or Mr. Flinn. But what I do think the prudent
23 course and what I hear -- what I think I hear the
24 Court saying is, Let's move forward on the case